

Union of India and others

Vs

Cottage Arts Emporium and others

Civil Appeal No. 346 of 1991

(M. N. Venkatachaliah, N. M. Kasliwal, S. Ranganathan JJ)

21.01.1991

JUDGMENT

1. Heard Shri A. Subba Rao, learned counsel for the Union of India and Shri S. K. Bhattacharya, learned counsel for the respondents.
2. Special leave granted.
3. Immediately after the authorities of the Enforcement Directorate conducted search and seizure operation and recovered certain foreign and Indian currency allegedly from the premises of the respondents, the respondents moved the High Court of Jammu and Kashmir under Art. 226 of the Constitution of India. The High Court admitted the writ-petition and made an interlocutory order directing the return of the seized valuables on certain terms. The Union of India assails the correctness of this order.
4. In the meanwhile, pursuant to certain interlocutory directions made by this Court during the pendency of the special leave petition, the Statutory Authority has concluded the adjudication proceedings and has passed an order of confiscation, penalty etc., on 5-10-1990. Appellants submit that after this adjudication the main writ-petition before the High Court does not survive as respondents have their statutory remedies by way of appeal against the adjudication. Respondents say that it is doubtful whether, in the facts found in the adjudication proceedings, respondents have such a right and that at all events it may not be an equally efficacious remedy in the facts of the present case. Appellants do not dispute that if respondents consider themselves aggrieved by the result of the adjudication they are entitled to prefer an appeal against that adjudication. In view of these developments, we think that the remedy by way of writ petition must be held to have now become inappropriate.
5. Accordingly, the appeal is allowed in part, the order of the High Court under appeal set aside and the main petition No. 263 of 1987 in the High Court dismissed. We direct that if an appeal is filed by the respondents within four weeks from today, the appellate authority shall not reject the appeal on the ground of limitation and shall dispose of the same in accordance with law and without recourse to the bar of limitation.
6. It is, however, made clear that if the respondents' remedy of an appeal against the adjudication is, for any reason, held not maintainable at all, then it will be open to the respondents to approach the High Court.

Order accordingly.

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